

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN DARNELL RAGLAND,

Plaintiff,

v.

Case No. 08-15253

M. RABY, KEITH BERBICK,
KEVIN KERR, NICOLAS SMISSICK,
DANIEL ROSE, ANDREW BELANGER,
BRIAN BOLASH, and ANTHONY CARIGNAN,

HONORABLE AVERN COHN

Defendants.

**ORDER
DENYING PLAINTIFF'S OBJECTIONS (Doc. No. 72) TO THE REPORT AND
RECOMMENDATION (Doc. No. 66)**

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff claims that defendants, police officers, violated his constitutional rights. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff filed a motion for summary judgment on his excessive force claim, contending that because defendant Raby did not contest that plaintiff had properly alleged a claim, he was entitled to summary judgment and damages.

On February 24, 2010, the magistrate judge issued a report and recommendation (MJRR) recommending that the motion be denied. In the MJRR, the magistrate explained the difference between the alleging a claim under Fed. R. Civ. P. 12 and being entitled to summary judgment on a claim under Fed. R. Civ. P. 56. Plaintiff did not

timely file objections. Accordingly, on March 15, 2010, the Court entered an order adopting the MJRR and denying plaintiff's motion for summary judgment. That same day, plaintiff filed objections to the MJRR. Although the objections are untimely and moot in light of the Court's adoption of the MJRR, the Court has reviewed the objections and finds no basis upon which to change its conclusion that plaintiff's is not entitled to summary judgment on his excessive force claim. Thus, plaintiff's objections are DENIED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: March 22, 2010

I hereby certify that a copy of the foregoing document was mailed to Kevin Ragland, 191565, St. Louis Correctional Facility, 8585 N. Croswell Road, St. Louis, MI 48880 and the attorneys of record on this date, March 22, 2010, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160